

1  
2  
3  
4  
5  
6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
8

9 ANTHONY MERITT POSEY,

10 Petitioner,

11 vs.

12 DWIGHT NEVEN, et al.,

13 Respondents.  
14

Case No. 2:15-cv-01482-RFB-GWF

**ORDER**

15 Petitioner has submitted an application to proceed in forma pauperis (ECF No. 5) and an ex  
16 parte motion for appointment of counsel (ECF No. 6). Petitioner already has paid the filing fee, but he  
17 is unable to afford counsel. The issues presented warrant the appointment of counsel. See 18 U.S.C.  
18 § 3006A(a)(2)(B).

19 IT IS THEREFORE ORDERED that the application to proceed in forma pauperis (ECF No. 5)  
20 is **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

21 IT IS FURTHER ORDERED that the clerk of the court shall file the petition for a writ of habeas  
22 corpus pursuant to 28 U.S.C. § 2254.

23 IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (ECF No. 6)  
24 is **GRANTED**. The Federal Public Defender is provisionally appointed to represent petitioner.

25 IT IS FURTHER ORDERED that the Federal Public Defender shall have thirty (30) days from  
26 the date that this order is entered to undertake direct representation of petitioner or to indicate to the  
27 court its inability to represent petitioner in these proceedings. If the Federal Public Defender does  
28 undertake representation of petitioner, he shall then have sixty (60) days to file an amended petition for

1 a writ of habeas corpus. If the Federal Public Defender is unable to represent petitioner, then the court  
2 shall appoint alternate counsel.

3 IT IS FURTHER ORDERED that neither the foregoing deadline nor any extension thereof  
4 signifies or will signify any implied finding of a basis for tolling during the time period established.  
5 Petitioner at all times remains responsible for calculating the running of the federal limitation period  
6 under 28 U.S.C. § 2244(d)(1) and timely asserting claims.

7 IT IS FURTHER ORDERED that the clerk shall add Adam Paul Laxalt, Attorney General for  
8 the State of Nevada, as counsel for respondents.

9 IT IS FURTHER ORDERED that the clerk shall electronically serve both the Attorney General  
10 of the State of Nevada and the Federal Public Defender a copy of the petition and a copy of this order.

11 IT IS FURTHER ORDERED that respondents' counsel shall enter a notice of appearance within  
12 twenty (20) days of entry of this order, but no further response shall be required from respondents until  
13 further order of the court.

14 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a separate  
15 index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments that are filed  
16 further shall be identified by the number or numbers (or letter or letters) of the exhibits in the  
17 attachment. The hard copy of any additional state court record exhibits shall be forwarded—for this  
18 case—to the staff attorneys in Las Vegas.

19 DATED: February 9, 2017.

20  
21   
22 RICHARD F. BOULWARE, II  
23 United States District Judge  
24  
25  
26  
27  
28